In the High Court of Judicature at Madras

Dated: 11.01.2007

Coram:

The Honourable Mr.Justice P.SATHASIVAM
and
The Honourable Mr.Justice N.PAUL VASANTHAKUMAR

Writ Petition No.5480 of 2002

P.Tamilselvi ..Petitioner

..vs..

1. The State of Tamilnadu rep.
   by Secretary to Government,
   Co-operation, Food and Consumer
   Protection Department,
   Fort St.George,
   Chennai-600 009.

2. The District Employment Officer,
   District Employment Exchange,
   Krishnagiri.

3. Dharmapuri District Central
   Co-operative Bank Ltd (K.K.349),
   Dharmapuri-636 701 rep.by
   its Special Officer. ..Respondents

Writ Petition filed under Article 226 of the Constitution of India, for issuance of a Writ of Mandamus, calling for the records pertaining to the impugned order passed by the 3rd respondent in Na.Ka.No.1408/2001 May(Ni) dt.5.12.2001, quash the same and consequently direct the respondents to forthwith provide employment to the petitioner as Assistant in 3rd respondent Bank in terms of 1st respondent's letter No.30561/CC-1/98-1 dated 20.5.99.

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For Petitioner : Mr.D.Hariparanthaman

For Respondents : Mr.K.Elango, Spl.G.P., for R1 & R2

Mrs.Bhavani Subbarayan,
Govt.Advocate for R3

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ORDER

(Order of the Court was made by P.SATHASIVAM, J.,)

Aggrieved by the order of the 3rd respondent dated 05.12.2001, the petitioner has filed the above writ petition to quash the same and consequently direct the respondents to forthwith provide employment to the petitioner as Assistant in 3rd respondent bank in terms of 1st respondent's letter dated 20.05.1999.

2. According to the petitioner, she passed B.Sc. degree examinations on 27.11.1990 and also obtained Diploma in Co-operation on 10.12.1991. She belongs to Backward community. Then, she registered her name in the District Employment Exchange, Krishnagiri, 2nd respondent herein. Meanwhile, the 1st respondent, in its letter dated 29.08.1998 requested the Registrar of Co-operative societies to stop all recruitment process for appointment of staff, by direct recruitment, in Primary, Central and Apex Co-operative Institutions. Later, by letter dated 20.05.1999, the 1st respondent informed the Registrar of Co-operative Societies that the ban on recruitment is lifted and requested to follow certain norms for recruitment. As per the said norms, the recruitment of staff should be in accordance with the approved cadre strength fixed for each institution and 85% of the vacancies should be filled up by following the seniority list maintained by the concerned District Employment Exchange and 15% of vacancies from the employees of the society concerned based on their seniority. The 1st respondent also made it clear that the rules relating to age and educational qualifications as well as the rule of reservation should be strictly followed.

3. It is the further case of the petitioner that subsequent to the above instructions, the 3rd respondent herein called for a list of eligible candidates from the 2nd respondent. The 2nd respondent also sponsored 69 candidates, by a list dated 09.01.2001. According to the petitioner, her name was also found as Serial No.10 in the list of backward class women candidates. The 2nd respondent herein by letter dated 04.04.2001 informed the petitioner that her name was sponsored, but she did not appear for the interview conducted by the 3rd respondent, and directed the petitioner to explain whether she is really interested in taking up the employment. The 2nd respondent in the same letter directed the petitioner to appear before the District Employment Officer at 11.00 a.m. without specifying any date. According to the petitioner, the said letter dated 04.04.2001 sent by the 2nd respondent was received by her on 20.04.2001. Immediately, she appeared before the 2nd respondent on 21.4.2001 and expressed her willingness to accept the employment. She also sent a letter dated 21.04.2001 to respondents 2 and 3 reiterating her stand.

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4. It is further stated that based on her letter, the Managing Director of the 3rd respondent bank by letter dated 25.04.2001, requested the 2nd respondent to send a list of five candidates including the petitioner who did not attend the interview. In the same letter, the 3rd respondent informed that among 69 candidates, 64 were given appointment orders on 08.03.2001 and remaining 5 candidates could not be given employment, as they did not appear for interview. According to the petitioner, the 3rd respondent did not send interview card. On enquiry, the petitioner came to know that the 3rd respondent did not send interview card by registered post with acknowledgment due. As requested by the 3rd respondent, the 2nd respondent sponsored a list of candidates belonging to Scheduled Caste (General), Backward class (Women) and open competition on 04.05.2001 in which the name of the petitioner was found. In that, the 2nd respondent certified that the petitioner is within the age limit on the date of sponsoring. Later, on the basis of oral order of 3rd respondent bank, the petitioner was working as a Clerk in the Harur branch of District Central Cooperative Bank from 16.05.2001 till 31.05.2001. Then, she was asked to attend duty after the appointment order was given. Thereafter, neither she was called for interview, nor provided with an employment. Hence, she sent a representation on 16.07.2001. In pursuance of the same, the 3rd respondent passed the impugned order dated 05.12.2001 informing her that she did not appear for the interview on 28.02.2001. Aggrieved by the same, the petitioner filed the present writ petition.

5. The 3rd respondent alone filed a counter affidavit highlighting its stand. Among the information furnished, the details stated in para 7 of the counter affidavit are relevant. According to the Joint Registrar/Special Officer of the 3rd respondent, by letter dated 03.04.2001 the 2nd respondent was informed that five candidates including the petitioner were absent on the date of interview. Then, the 2nd respondent by letter dated 04.04.2001, informed the petitioner whether she was interested in accepting the employment. On receipt of the said letter from the 2nd respondent, the petitioner by letter dated 23.04.2001 requested the 2nd respondent to give another opportunity. Based on the request of the 3rd respondent, the 2nd respondent, by letter dated 03.04.2001 sent another list including the name of petitioner, but it was not taken up for consideration on account of administrative reasons. Consequently, the list sent by the 2nd respondent was returned by the 3rd respondent by letter dated 26.06.2001. In the same counter, the 3rd respondent also furnished other details about the post of Assistant. As per para-3 of the counter affidavit, in so far as the post Assistant is concerned, the posts sanctioned were 200, whereas actual number of posts filled up as on 31.03.2001 was 118 and the remaining vacancies were 82. In para-9 while furnishing the position as on 31.12.2006, the 3rd respondent has stated that in so far as the post of Assistant is concerned, approved cadre strength is 131; staff strength as on 03.12.2006 is 151 and number of vacancies is 'Nil'.

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6. In the light of the above pleadings, we heard the learned counsel for the petitioner as well as respondents.

7. Learned counsel for the petitioner has brought to our notice the communications/letters sent by 2nd and 3rd respondents, which show that the petitioner did not appear on the date of interview originally conducted. It is not in dispute that as requested by the 3rd respondent, the 2nd respondent again forwarded the names of five persons including the petitioner. The letter dated 25.04.2001 of the 3rd respondent, which is available at page 7 of the typed-set of papers, shows that the 3rd respondent requested the 2nd respondent to sponsor five names. Apart from the above factual aspects, learned counsel for the petitioner has also brought to our notice that even on 22.09.2003 this Court directed the 3rd respondent to reserve one post (Assistant) pending disposal of the writ petition. In view of the fact that among the 69 posts for which the interview was originally conducted, 5 posts were not filled up, because of the absence of five persons and at the request of the 3rd respondent, the 2nd respondent again forwarded 5 names including the name of the petitioner. Taking note of the direction of this Court, as mentioned above, we are of the view that the claim of the petitioner ought to have been considered by the 3rd respondent bank.

8. It is also brought to our notice that now the Government have liberalised the procedure in regularising all persons either appointed or persons not considered due to various reasons/orders/proceedings. Further, the 3rd respondent has specifically stated that the petitioner was not considered because of the ban imposed by the Government which has subsequently been lifted by G.O.No.249 dated 31.10.2006, as evident from the details furnished in para 8 of the counter affidavit. Hence, we are inclined to issue direction to the 3rd respondent as claimed by the petitioner. It is made clear that if the petitioner is otherwise eligible/suitable for the post in question, the 3rd respondent is directed to consider the case of the petitioner and pass appropriate orders within a period of eight weeks from the date of receipt of a copy of this order.

The writ petition is disposed of on the above terms. No costs.

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Sd/-
Asst. Registrar.

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Sub Asst. Registrar.

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To

1. The Secretary to Government,
   State of Tamilnadu,
   Co-operation, Food and Consumer
      Protection Department,
   Fort St.George,
   Chennai-600 009.

2. The District Employment Officer,
   District Employment Exchange,
   Krishnagiri.

3. The Special Officer,
   Dharmapuri District Central
   Co-operative Bank Ltd (K.K.349),
   Dharmapuri-636 701.

+ One C.C to Mr.D.Hariparanthaman, Advocate SR.No.2540

+ One C.C to The Govt. Pleader SR.No.2464

+ One C.C to M/S. V.Bhavani Subbaroyan, Advocate SR.No.2368

GK(CO)
VA [24.01.2007]

Order in Writ Petition
No.5480 of 2002

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